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1

(20m) GRANTS FOR SHOOTING RANGES. (a) Using the fees collected under sub. (7) (bp) and (15) (b) 4. c., a sheriff ~~of that county~~ ^{recipient} shall award grants to persons for construction or improvement of shooting ranges.

(b) A grant awarded under this subsection may be for up to 50 percent of the cost of the construction or improvement of the shooting range. A grant awarded under this subsection may not be used to pay for any of the following:

1. The construction of clubhouses and facilities that are not essential to the operation of the shooting range.

2. The operation and maintenance of the shooting range.

(c) In order to receive a grant under this subsection, the person creating or improving a shooting range shall agree to provide, for a fee of not more than \$20, a firearm safety course or class that will qualify an individual to satisfy the requirements under sub. (3) (h) for a license to carry a concealed weapon.

(d) In determining whether to make a grant under this subsection to a particular applicant, the sheriff shall consider the potential of the project to meet the needs of firearm safety courses or classes that meet the requirements under sub. (4m) in the area served by the shooting range relative to the proposed cost of the construction or improvement.

(21) IMMUNITY. (a) The department and its employees, ~~sheriffs and their employees,~~ clerks, as defined in sub. (11) (d) 1. a., and their staff, court automated information systems, as defined under sub. (11) (d) 1. b., and its employees, and counties and their employees are immune from liability arising from any act or omission under this section, if done in good faith.

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1 (b) A person providing a firearm safety or firearm training course or class in
2 good faith is immune from liability arising from any act or omission related to the
3 course or class if the course or class is one described in sub. (3) (h).

4 (c) A business or a nonprofit organization that permits a person to carry a
5 concealed weapon on property that it owns or occupies is immune from any liability
6 arising from its decision to do so, if done in good faith.

7 (d) An employer that permits any of its employees to carry a concealed weapon
8 under sub. (15m) is immune from any liability arising from its decision to do so, if
9 done in good faith.

10 **SECTION 22.** 440.26 (3m) of the statutes is amended to read:

11 440.26 (3m) RULES CONCERNING DANGEROUS WEAPONS. The department shall
12 promulgate rules relating to the carrying of dangerous weapons by a person who
13 holds a license or permit issued under this section or who is employed by a person
14 licensed under this section. The rules shall allow the person to go armed with a
15 concealed weapon as permitted under s. 175.50 if the person is licensed under that
16 section and shall meet the minimum requirements specified in 15 USC 5902 (b).

17 **SECTION 23.** 813.12 (6) (am) 1. of the statutes is amended to read:

18 813.12 (6) (am) 1. If an injunction is issued or extended under sub. (4) or if a
19 tribal injunction is filed under s. 806.247 (3), the clerk of the circuit court shall notify
20 the department of justice of the injunction and shall provide the department of
21 justice with information concerning the period during which the injunction is in
22 effect and information necessary to identify the respondent for purposes of a firearms
23 restrictions record search under s. 175.35 (2g) (c) or a background check under s.
24 175.50 (9g) (b).

25 ~~**SECTION 24.** 813.12 (6) (am) 2. of the statutes is amended to read:~~

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SECTION 24

1 813.12 (6) (am) 2. Except as provided in subd. 3., the department of justice may
2 disclose information that it receives under subd. 1. only as part of a firearms
3 restrictions record search under s. 175.35 (2g) (c) or a background check under s.
4 175.50 (9g) (b) or to a sheriff under s. 175.50 (9g) (b) 3. a. or c. or (e) 1., (9r) (b) 2., or
5 (11) (d) 3.

6 **SECTION 25.** 813.122 (9) (am) 1. of the statutes is amended to read:

7 813.122 (9) (am) 1. If an injunction is issued or extended under sub. (5), the
8 clerk of the circuit court shall notify the department of justice of the injunction and
9 shall provide the department of justice with information concerning the period
10 during which the injunction is in effect and information necessary to identify the
11 respondent for purposes of a firearms restrictions record search under s. 175.35 (2g)
12 (c) or a background check under s. 175.50 (9g) (b).

13 **SECTION 26.** 813.122 (9) (am) 2. of the statutes is amended to read:

14 813.122 (9) (am) 2. Except as provided in subd. 3., the department of justice
15 may disclose information that it receives under subd. 1. only as part of a firearms
16 restrictions record search under s. 175.35 (2g) (c) or a background check under s.
17 175.50 (9g) (b) or to a sheriff under s. 175.50 (9g) (b) 3. a. or c. or (e) 1., (9r) (b) 2., or
18 (11) (d) 3.

19 **SECTION 27.** 813.125 (5r) (a) of the statutes is amended to read:

20 813.125 (5r) (a) If an order prohibiting a respondent from possessing a firearm
21 is issued under sub. (4m), the clerk of the circuit court shall notify the department
22 of justice of the existence of the order prohibiting a respondent from possessing a
23 firearm and shall provide the department of justice with information concerning the
24 period during which the order is in effect and information necessary to identify the

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1 respondent for purposes of a firearms restrictions record search under s. 175.35 (2g)
2 (c) or a background check under s. 175.50 (9g) (b).

3 **SECTION 28.** 813.125 (5r) (b) of the statutes is amended to read:

4 813.125 (5r) (b) Except as provided in par. (e), the department of justice may
5 disclose information that it receives under par. (a) only as part of a firearms
6 restrictions record search under s. 175.35 (2g) (c) or a background check under s.
7 175.50 (9g) (b) or to a sheriff under s. 175.50 (9g) (b) 3. a. or c. or (e) 1., (9r) (b) 2., or
8 (11) (d) 3.

9 **SECTION 29.** 885.235 (1g) (intro.) of the statutes is amended to read:

10 885.235 (1g) (intro.) In any action or proceeding in which it is material to prove
11 that a person was under the influence of an intoxicant or had a prohibited alcohol
12 concentration or a specified alcohol concentration while operating or driving a motor
13 vehicle or, if the vehicle is a commercial motor vehicle, on duty time, while operating
14 a motorboat, except a sailboat operating under sail alone, while operating a
15 snowmobile, while operating an all-terrain vehicle, while going armed with a
16 concealed weapon, or while handling a firearm, evidence of the amount of alcohol in
17 the person's blood at the time in question, as shown by chemical analysis of a sample
18 of the person's blood or urine or evidence of the amount of alcohol in the person's
19 breath, is admissible on the issue of whether he or she was under the influence of an
20 intoxicant or had a prohibited alcohol concentration or a specified alcohol
21 concentration if the sample was taken within 3 hours after the event to be proved.
22 The chemical analysis shall be given effect as follows without requiring any expert
23 testimony as to its effect:

24 **SECTION 30.** 885.235 (1g) (e) of the statutes is created to read:

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1 885.235 (1g) (e) In a case brought under s. 175.50 (16) (cm) 1. a. or b., the fact
2 that the analysis shows that the person had an alcohol concentration of more than
3 0.0 but less than 0.08 is relevant evidence on the issue of whether the person was
4 intoxicated or had an alcohol concentration of 0.08 or more but is not to be given any
5 prima facie effect. In a case brought under s. 175.50 (16) (cm) 1. a., the fact that the
6 analysis shows that the person had an alcohol concentration of 0.08 or more is prima
7 facie evidence that he or she had an alcohol concentration of 0.08 or more.

8 **SECTION 31.** 938.396 (8) of the statutes is amended to read:

9 938.396 (8) Notwithstanding sub. (2), if a juvenile is adjudged delinquent for
10 an act that would be a felony if committed by an adult, the court clerk shall notify
11 the department of justice of that fact. No other information from the juvenile's court
12 records may be disclosed to the department of justice except by order of the court.
13 The department of justice may disclose any information provided under this
14 subsection only as part of a firearms restrictions record search under s. 175.35 (2g)
15 (c) or a background check under s. 175.50 (9g) (b) or to a sheriff under s. 175.50 (9g)
16 (b) 3. a. or c. or (e) 1., (9r) (b) 2., or (11) (d) 3.

17 **SECTION 32.** 938.396 (8m) of the statutes is created to read:

18 938.396 (8m) (a) Notwithstanding sub. (2), if a juvenile is adjudged delinquent
19 for an act that would be a misdemeanor crime of violence, as defined in s. 175.50 (1)
20 (e), if committed by an adult, the court clerk shall notify the department of justice
21 of that fact. Except as provided in par. (b), no other information from the juvenile's
22 court records may be disclosed to the department of justice except by order of the
23 court.

24 (b) If an applicant for a license to carry a concealed weapon under s. 175.50 was
25 adjudicated delinquent as a juvenile in a case covered by par. (a), the department of

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1 justice may request permission to review court records relating to the case for the
2 purpose of determining whether the applicant meets the requirement under s.
3 175.50 (3) (m). Upon receiving such a request, the court shall open for inspection by
4 authorized representatives of the department of justice the records of the court
5 relating to that case.

6 (c) The department of justice may disclose information provided or obtained
7 under this subsection only as part of a background check under s. 175.50 (9g) (b) or
8 to a sheriff under s. 175.50 (9g) (b) 3. a. or c. or (e) 1., (9r) (b) 2., or (11) (d) 3.

9 **SECTION 33.** 941.20 (1) (a) of the statutes is amended to read:

10 941.20 (1) (a) Endangers another's safety by the negligent operation or
11 handling of a dangerous weapon; or.

12 **SECTION 34.** 941.20 (1) (b) of the statutes is amended to read:

13 941.20 (1) (b) Operates or goes armed with a firearm while he or she is under
14 the influence of an intoxicant; or.

15 **SECTION 35.** 941.20 (1) (bm) of the statutes is created to read:

16 941.20 (1) (bm) Goes armed with a firearm while he or she is under the
17 influence of an intoxicant. This paragraph does not apply to a licensee, as defined
18 in s. 175.50 (1) (d), or an out-of-state licensee, as defined in s. 175.50 (1) (g), who goes
19 armed with a concealed handgun, as defined in s. 175.50 (1) (bm), while he or she is
20 under the influence of an intoxicant or while he or she has an alcohol concentration,
21 as defined in s. 340.01 (1v), that exceeds 0.08.

22 **SECTION 36.** 941.23 of the statutes is renumbered 941.23 (1) (intro.) and
23 amended to read:

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1 941.23 (1) (intro.) Any person ~~except a peace officer, other than one of the~~
2 following, who goes armed with a concealed and dangerous weapon is guilty of a
3 Class A misdemeanor;

4 **SECTION 37.** 941.23 (1) (a) of the statutes is created to read:

5 941.23 (1) (a) A peace officer.

6 **SECTION 38.** 941.23 (1) (b) of the statutes is created to read:

7 941.23 (1) (b) An individual holding a valid license under s. 175.50 or
8 authorized under the law of another state to go armed with a concealed weapon in
9 that state, if the dangerous weapon is a weapon, as defined under s. 175.50 (1) (j).

10 **SECTION 39.** 941.23 (1) (c) of the statutes is created to read:

11 941.23 (1) (c) An individual who goes armed with a concealed and dangerous
12 weapon, as defined in s. 175.50 (1) (j), in his or her own dwelling or place of business
13 or on land that he or she owns, leases, or legally occupies, unless he or she is
14 prohibited under federal or state law from possessing that weapon.

15 **SECTION 40.** 941.23 (2) of the statutes is created to read:

16 941.23 (2) An individual formerly licensed under s. 175.50 whose license has
17 been suspended or revoked under s. 175.50 (14) may not assert his or her refusal to
18 accept or failure to receive a notice of revocation or suspension mailed under s. 175.50
19 (14) (b) 2. as a defense to prosecution under sub. (1), regardless of whether the person
20 has complied with s. 175.50 (12).

21 **SECTION 41.** 941.235 (2) of the statutes is renumbered 941.235 (2) (intro.) and
22 amended to read:

23 941.235 (2) (intro.) This section does not apply to peace any of the following:

24 (a) Peace officers or armed forces or military personnel who go armed in the line
25 of duty ~~or to any~~.

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1 (b) A person duly authorized by the chief of police of any city, village or town,
2 the chief of the capitol police or the sheriff of any county to possess a firearm in any
3 building under sub. (1).

4 **SECTION 42.** 941.235 (2) (c) of the statutes is created to read:

5 941.235 (2) (c) An individual holding a valid license under s. 175.50 or
6 authorized under the law of another state to go armed with a concealed weapon, as
7 defined in s. 175.50 (1) (j), if the firearm is a handgun, as defined in s. 175.50 (1) (bm).

8 **SECTION 43.** 941.237 (3) (ct) of the statutes is created to read:

9 941.237 (3) (ct) An individual holding a valid license under s. 175.50 or
10 authorized under the law of another state to go armed with a concealed weapon in
11 that state.

12 **SECTION 44.** 941.295 (2) (d) of the statutes is amended to read:

13 941.295 (2) (d) Any manufacturer or seller ~~whose of~~ electric weapons ~~are used~~
14 ~~in this state solely by persons, unless the manufacturer or seller engages in the~~
15 conduct described in sub. (1) with the intent to provide an electric weapon to someone
16 other than a person specified in pars. (a) to (c) or sub. (2g) (a) or to a person for use
17 in his or her dwelling or place of business or on land that he or she owns, leases, or
18 legally occupies.

19 **SECTION 45.** 941.295 (2g) of the statutes is created to read:

20 941.295 (2g) The prohibition in sub. (1) on possessing or going armed with an
21 electric weapon does not apply to any of the following:

22 (a) An individual holding a valid license under s. 175.50 or authorized under
23 the law of another state to go armed with a concealed weapon in that state.

24 (b) An individual who goes armed with an electric weapon in his or her own
25 dwelling or place of business or on land that he or she owns, leases, or legally

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occupies, unless he or she is prohibited under federal or state law from possessing that weapon.

SECTION 46. 941.295 (2r) of the statutes is created to read:

941.295 (2r) The prohibition in sub. (1) on transporting an electric weapon does not apply to any of the following:

(a) An individual holding a valid license under s. 175.50 or authorized under the law of another state to go armed with a concealed weapon in that state.

(b) An individual who transports an electric weapon from any of the following places to any of the following places:

1. His or her dwelling.

2. His or her own place of business.

3. Land that he or she owns, leases, or legally occupies.

SECTION 47. 943.13 (1e) (bm) of the statutes is created to read:

943.13 (1e) (bm) "Licensee" means a licensee, as defined in s. 175.50 (1) (d), or an out-of-state licensee, as defined in s. 175.50 (1) (g).

SECTION 48. 943.13 (1e) (g) of the statutes is created to read:

943.13 (1e) (g) "Weapon" has the meaning given in s. 175.50 (1) (j).

SECTION 49. 943.13 (1m) (b) of the statutes is amended to read:

943.13 (1m) (b) Enters or remains on any land of another after having been notified by the owner or occupant not to enter or remain on the premises. This paragraph does not apply to a licensee if the owner's or occupant's intent is to prevent the licensee from going armed with a concealed weapon on the owner's or occupant's land.

SECTION 50. 943.13 (1m) (c) of the statutes is created to read:

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1 943.13 (1m) (c) 1. While going armed with a concealed weapon, enters or
2 remains at a residence that the person does not own or occupy after the owner of the
3 residence, if he or she has not leased it to another person, or the occupant of the
4 residence has notified the actor not to enter or remain at the residence while going
5 armed with a concealed weapon or with that type of concealed weapon. In this
6 subdivision, “residence,” with respect to a single-family residence, includes all of the
7 premises, and “residence,” with respect to a residence that is not a single-family
8 residence, does not include any common area of the building in which the residence
9 is located.

10 2. While going armed with a concealed weapon, enters or remains in any part
11 of a nonresidential building that the person does not own or occupy after the owner
12 of the building, if he or she has not leased it to another person, or the occupant of the
13 building has notified the actor not to enter or remain in the building while going
14 armed with a concealed weapon or with that type of concealed weapon. This
15 subdivision does not apply to a part of a building occupied by the state or one of its
16 political subdivisions or to any part of a building used for parking.

17 **SECTION 51.** 943.13 (2) of the statutes is renumbered 943.13 (2) (am), and
18 943.13 (2) (am) (intro.) and 1., as renumbered, are amended to read:

19 943.13 (2) (am) (intro.) A person has received notice from the owner or occupant
20 within the meaning of sub. (1m) (b), (e) or (f) if he or she has been notified personally,
21 either orally or in writing, or if the land is posted. Land is considered to be posted
22 under this ~~subsection~~ paragraph under either of the following procedures:

23 1. If a sign at least 11 inches square is placed in at least 2 conspicuous places
24 for every 40 acres to be protected. The sign must carry an appropriate notice and the
25 name of the person giving the notice followed by the word “owner” if the person giving

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1 the notice is the holder of legal title to the land and by the word “occupant” if the
2 person giving the notice is not the holder of legal title but is a lawful occupant of the
3 land. Proof that appropriate signs as provided in this paragraph subdivision were
4 erected or in existence upon the premises to be protected prior to the event
5 complained of shall be prima facie proof that the premises to be protected were posted
6 as provided in this paragraph subdivision.

7 **SECTION 52.** 943.13 (2) (bm) of the statutes is created to read:

8 943.13 (2) (bm) 1. In this paragraph, “sign” means a sign that states a
9 restriction imposed under subd. 2. that is at least 8.5 inches by 11 inches *square*

10 2. For the purposes of sub. (1m) (c) 2., an owner or occupant of a part of a
11 nonresidential building has notified an individual not to enter or remain in that part
12 of the nonresidential building while going armed with a concealed weapon or with
13 a particular type of concealed weapon if the owner or occupant has done all of the
14 following:

15 a. Posted a sign that is located in a prominent place near the primary entrance
16 to the part of the nonresidential building to which the restriction applies.

17 b. Personally and orally notified the individual of the restriction.

18 **SECTION 53.** 943.13 (3) of the statutes is amended to read:

19 943.13 (3) Whoever erects on the land of another signs which are the same as
20 or similar to those described in sub. (2) (am) without obtaining the express consent
21 of the lawful occupant of or holder of legal title to such land is subject to a Class C
22 forfeiture.

23 **SECTION 54.** 946.32 (3) of the statutes is created to read:

24 946.32 (3) This section does not apply to offenses that may be prosecuted under
25 s. 175.50 (17) (c).

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1 **SECTION 55.** 948.605 (2) (c) of the statutes is created to read:

2 948.605 (2) (c) Paragraph (a) does not apply to the possession of a handgun, as
3 defined in s. 175.50 (1) (bm), by an individual holding a valid license under s. 175.50
4 or authorized under the law of another state to go armed with a concealed handgun
5 who is going armed with a concealed handgun as permitted under s. 175.50.

6 **SECTION 56.** 948.61 (3m) of the statutes is created to read:

7 948.61 (3m) This section does not apply to the possession of a weapon, as
8 defined in s. 175.50 (1) (j), other than a handgun, as defined in s. 175.50 (1) (bm), by
9 an individual holding a valid license under s. 175.50 or authorized under the law of
10 another state to go armed with a concealed weapon who is going armed with a
11 concealed weapon as permitted under s. 175.50.

12 **SECTION 57. Nonstatutory provisions.**

13 (1) Using the procedure under section 227.24 of the statutes, the department
14 of justice shall promulgate rules required under sections 165.25 (11) (a) and 175.35
15 (2g) (c) 3. of the statutes and under section 175.50 (9g) (f) of the statutes, as created
16 by this act, for the period before the effective date of the permanent rules
17 promulgated under those sections, but not to exceed the period authorized under
18 section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a),
19 (2) (b), and (3) of the statutes, the department is not required to provide evidence that
20 promulgating a rule under this subsection as an emergency rule is necessary for the
21 preservation of public peace, health, safety, or welfare and is not required to provide
22 a finding of an emergency for a rule promulgated under this subsection.

23 **SECTION 58. Effective dates.** This act takes effect on the first day of the 5th
24 month beginning after publication, except as follows: 2nd

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1 (1) The treatment of sections 165.25 (11) (a) and 175.50 (2) (b), (2m) and (5) of
2 the statutes and SECTION 57 (1) of this act take effect on the day after publication.

(END)

Notes from PPA (CCW) meeting

- ① Sherman's CCW bill -- use MGD's lang in analysis re: school zones
- ② Don't expand scope for background check beyond what is for gun -- unless it already was part, but info. is now available
- ③ Range improvement responsibility to counties, not sheriffs
- ④ No photo on license / must carry photo i.d. -- same penalty for not carrying license
- ⑤ Limit restriction in airport -- "secure zone" only
- ⑥ reciprocity -- just for background checks -- not for training -- DOT must still maintain list
- ⑦ P 21, l 8
- ⑧ DOT to compile list of instructors -- if DOT denies, may appeal, costs to DOT if lose
- ⑨ P. 34 - within 14 days or DOT shall name?
- ⑩ P 35 - quarterly \$
- ⑪ military renewal see A2 - HB 2325
- ⑫ SB 214, 45, 3 - 30% -- based on annual gross receipts
- ⑬ immunity to ind. if allows to carry on prop.

⑭ Not a special penalty for .08

⑮ P.28, ls 12-14 - why?

Hogan, John

From: Tribys, Eleanora
Sent: Wednesday, June 15, 2005 12:08 PM
To: *Legislative Assembly Democrats; *Legislative Assembly Republicans; *Legislative Senate Democrats; *Legislative Senate Republicans
Subject: Sherman Co-Sponsorship LRB 1617-4 Carrying concealed weapons by out-of-state and retired law enforcement officers
Attachments: 05-16174.pdf

DATE: 15 June 2005

TO: All Legislative Colleagues
FROM: Rep. Gary Sherman
RE: Co-sponsorship of LRB 1617/4 Carrying concealed weapons by out-of-state and retired law enforcement officers

CO-SPONSORSHIP DEADLINE: 30 June 2005 5pm

Federal law now mandates that every state allow retired law enforcement officers to carry concealed weapons. Some local law enforcement officials believe that they have the authority to issue the necessary credentials and others do not. This bill resolves the inconsistent practice and brings Wisconsin into compliance with federal law.

In drafting the bill, I have tried to keep it as clear and straightforward as possible, simply adopting federal law without complicating it unnecessarily with other policy issues. I have aimed for low cost and avoidance of unnecessary procedure and bureaucracy, treating retired officers just like active officers, as the federal law requires.

The detailed LRB analysis follows and the entire draft is attached.

Analysis by the Legislative Reference Bureau

This bill makes certain changes in Wisconsin law to account for a federal law that requires the state to permit an individual who works as or who has retired from working as a federal, state, tribal, or local law enforcement officer in Wisconsin or in any other state to carry a concealed firearm under certain circumstances.

Current state and federal law regarding concealed weapons

Wisconsin law specifies that, in general, no person may go armed with a concealed firearm or any other concealed, dangerous weapon. This prohibition, however, does not apply to peace officers, such as local, state, tribal, or federal law enforcement officers. In addition, under *State v. Hamdan*, 2003 WI 113, 264 Wis. 2d 433, it is unconstitutional to apply this prohibition to a person carrying a concealed weapon at his or her own business when: 1) the person's interest in carrying a concealed weapon substantially outweighs the state's interest in enforcing the concealed weapons law; 2) the person has no other reasonable means to keep and handle the weapon; and 3) the person is not motivated by an unlawful purpose in concealing it. The *Hamdan* court also indicated that the constitutional right to keep and bear arms for security must permit a person to carry a concealed weapon under certain circumstances in his or her own home.

In addition, federal law prohibits the state from barring certain active duty or retired law enforcement officers from carrying concealed firearms. Under federal law, qualified law enforcement officers and qualified retired law enforcement officers who meet certain specified requirements may carry concealed firearms that have been shipped or transported in interstate or foreign commerce, regardless of any prohibition imposed under state law.

Federal law specifies the criteria that a person must meet to be a qualified law enforcement officer or a

qualified retired law enforcement officer. To be the former, a person must: 1) be employed by a government agency; 2) be a law enforcement officer (defined under federal law as a person authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law and having statutory powers of arrest); 3) be authorized by the agency to carry a firearm; 4) not be the subject of any disciplinary action by the agency; 5) not be under the influence of alcohol or other drugs; 6) not be prohibited under federal law from possessing a firearm; and 7) meet all standards, if any, established by the agency to qualify the person on a regular basis to use a firearm. For a person to be a qualified retired law enforcement officer, all of the following must apply: 1) the person retired in good standing from service with a government agency as a law enforcement officer, other than for reasons of mental instability; 2) before retirement, the person was regularly employed as a law enforcement officer for an aggregate of 15 years or more or retired after completing any applicable probationary period of service due to a service-connected disability; 3) the person has a nonforfeitable right to benefits under the agency's retirement plan; 4) the person is not under the influence of alcohol or other drugs; 5) the person is not prohibited under federal law from possessing a firearm; and 6) during the most recent 12-month period, the person has met the state's standards for training and qualification for active duty law enforcement officers to carry firearms. (Wisconsin law does not currently set or impose any standards for ongoing training and qualification for active duty law enforcement officers to remain eligible to carry firearms.) *or local stds.*

Under federal law, if a person is a qualified law enforcement officer, the prohibition contained in Wisconsin law regarding going armed with a concealed and dangerous weapon does not apply to his or her going armed with a concealed firearm if the person carries a photo ID issued by the agency for which he or she works. If the person is a qualified retired law enforcement officer, the prohibition does not apply to his or her going armed with a concealed firearm if the person carries either: 1) a photo ID issued by the agency from which the person retired as a law enforcement officer that indicates that, within the preceding 12 months, the agency has tested the person or otherwise found that he or she meets its standards for training and qualification for active duty law enforcement officers to carry the type of firearm that the qualified retired law enforcement officer is carrying concealed; or 2) both of the following: a) a photo ID issued by the agency from which the person retired as a law enforcement officer; and b) a certification issued by the state in which the person resides that indicates that, within the preceding 12 months, the state has tested the person or otherwise found that he or she meets its standards for training and qualification for active duty law enforcement officers to carry the type of firearm that the qualified retired law enforcement officer is carrying concealed. Federal law, however, specifies that the exemption for qualified law enforcement officers and qualified retired law enforcement officers does not apply if the firearm involved is a machine gun, has a silencer attached to it, or is a destructive device (such as a bomb). Federal law also specifies that a state may: 1) permit private persons or entities to bar the possession of concealed firearms on their own property; and 2) prohibit or restrict the possession of firearms on any state or local government property, installation, base, building, or park.

What the bill does

This bill codifies in the state concealed weapons statute the provisions of federal law that make the statute inapplicable to active duty and retired law enforcement officers under the circumstances specified in federal law (and described above). To implement federal law, the bill also makes certain other state law prohibitions regarding the carrying of firearms inapplicable to an active duty or retired law enforcement officer if he or she is carrying a concealed firearm under those same circumstances. These include the prohibition on going armed with a handgun in a tavern, the prohibition regarding the possession, transportation, or loading of a handgun in vehicles, motorboats, and aircraft, and the prohibition on possessing a firearm that may arise in certain domestic abuse cases. (Depending on the facts, however, a person who is subject to such an injunction may, as a result of that case, also be prohibited under federal law from possessing a firearm, which means that the federal law regarding the carrying of a concealed firearm would not apply.) Similarly, the bill modifies the state's prohibition on possessing a firearm in a school zone to create an exemption for active duty and retired law enforcement officers who are carrying concealed firearms. These changes, however, relate only to the carrying of a concealed firearm at or within 1,000 feet of a private school and within 1,000 feet of the grounds of a public school. The bill leaves unaffected the provisions of the gun-free school zone law that relate to possession of a firearm in a public school itself or on the grounds of a public school. *★*

dl
PPA
For make
clear

The bill also imposes certain requirements on state and local law enforcement agencies in Wisconsin to enable retired law enforcement officers to carry concealed firearms in the manner provided under federal law. Under the bill, after a law enforcement officer retires from service with a state or local law enforcement agency, the agency must provide the retired officer, upon his or her request, opportunities to meet the agency's standards for training and qualification that active duty officers must meet to carry firearms. The agency must also provide the retired officer a photo ID card upon his or her request if, within the preceding 12 months, the officer met those standards or if the agency does not have any such standards. The photo ID card must indicate all of the following: 1) that the agency has found that the officer has met the issuing agency's standards for training and qualification for its active duty law enforcement officers to carry firearms; 2) the date on which the agency made that finding; and 3) the type of firearm that, as a result of the finding, the officer may be qualified to carry concealed. These requirements, however, apply only if: 1) the retired officer satisfies the first three criteria listed above for being a "qualified retired law enforcement officer" under federal law; 2) the Department of Justice (DOJ) determines that its records do not indicate that the retired officer is prohibited from possessing a firearm under federal law or (with the exception of the prohibition based on a domestic abuse injunction) state law; and 3) the retired officer is a Wisconsin resident. If a retired officer lives in another state, he or she may have the agency issue a less detailed photo ID card which, in combination with a certification issued by the other state, would permit the person to carry a concealed firearm.

A law enforcement agency may charge a retired officer a fee to cover the costs of issuing either type of ID card. DOJ and other law enforcement agencies may also charge a Wisconsin resident a fee to cover the costs of providing training and determining the person's eligibility.

Finally, the bill requires an active duty or retired law enforcement officer to carry his or her ID card, or ID card and certification, while carrying a concealed firearm. A person who violates this prohibition is subject to a forfeiture (a civil penalty) of not more than \$200. (In contrast to the requirements of federal law, the exemption that the bill creates in the state's concealed weapons statute for an active duty or retired law enforcement officer is not dependent on the person carrying his or her ID card, or ID card and certification. The person only needs to have been issued the ID card, or ID card and certification, for the exemption to apply.) In addition, if a retired law enforcement officer has been issued an identification card that authorizes the carrying of a concealed firearm, the retired officer must notify the sheriff for his or her county of residence that he or she has been issued the card. (This requirement does not apply if the retired officer was issued the card by a local law enforcement agency in Wisconsin and resides in the county in which it was issued.) A person who fails to comply with this requirement is subject to a forfeiture of not more than \$200.



05-16174.pdf
(68 KB)

Dsida, Michael

From: Hogan, John
Sent: Wednesday, August 17, 2005 1:05 PM
To: Dsida, Michael; Bruhn, Mike
Subject: RE: PPA mtg

Sensitivity: Confidential

It might be easiest to sit down tomorrow morning to go over these couple issues. I'm free all morning, as is Bruhn. Shall we meet in Gundy's office say 10am?

From: Dsida, Michael
Sent: Wednesday, August 17, 2005 12:33 PM
To: Hogan, John; Bruhn, Mike
Subject: RE: PPA mtg
Sensitivity: Confidential

1. Under the LRB's drafting manual, a bill cannot include a statement of legislative intent, purpose, or findings unless the bill is a restatement of current law or the statement may help fend off a constitutional challenge to the bill. Sorry about that.
2. I'm not sure what the second sentence under "Standards for recognition..." is intended to cover.
3. Are retired law enforcement officers required to undergo the same training that is required of other people seeking a license?

From: Hogan, John
Sent: Friday, July 08, 2005 3:20 PM
To: Dsida, Michael; Hanaman, Cathlene
Cc: Bruhn, Mike
Subject: PPA mtg
Sensitivity: Confidential

Sorry I missed the meeting today guys. Here is the concept we need inserted into the PPA draft. This addresses the HR 218 (national ccw for cops) situation. - John

**Model Regulatory Language for Implementation of 18 U.S.C. 926B and 926C,
The "Law Enforcement Officers Safety Act" (LEOSA)**

This document outlines the key minimal provisions to bring a state into compliance with federal law as simply and cheaply as possible. It can be reconfigured to meet the drafting style of the state. The findings that support declaring the civilian permit system satisfying an "active service off-duty" qualification and that officers (active and retired) are civilians to the extent they carry firearms under the law are critical and should be adopted as statute if findings are not common practice for the state.

While state specific language can be prepared most legislators run bill language through state drafting services. It is critical that such language be vetted after it is prepared and before filing.

Note: This regimen can more easily be created regulatorily in most cases. The operating parameters would be the same.

Legislative findings:

- It is the view of the legislature that as a matter of public policy these federal preemptions must be accommodated and supported as broadly as possible;

- LEOSA confers protection on both qualified active and qualified retired law enforcement officers outside the scope of any authority conferred by state or local law but premised on current or prior service;
- Persons carrying under the protection of LEOSA are private citizens to the extent LEOSA applies;
- It would therefore create liability for the state or its subdivisions to require compliance with 18 U.S.C. 926B(c)(4) and 926C(c)(5) be premised on any training or qualification intended for sworn law enforcement acting within the scope of their duties;
- It is therefore declared by the state of _____, that the standard for qualified law enforcement officers and qualified retired law enforcement officers shall be the active service off duty law enforcement standard; and
- That standard shall be the possession of a civilian concealed carry license.

Codification

Should be by amendment to any existing concealed carry of firearms law already in place in the state.

Definitions

"Qualified law enforcement officer" shall have the same meaning as provided for under federal law 18 U.S.C. 926B(c);

"Qualified retired law enforcement officer" shall have the same meaning as provided for under federal law 18 U.S.C. 926C((c)).

Provisions

Issuance of photographic identification for law enforcement officers

The state and any subdivision thereof shall issue photographic identification to any person who meets the definition of qualified law enforcement officer with their department or agency and to any person who, having served the state or any subdivision thereof in a capacity that otherwise meets the definition of qualified retired law enforcement officer. Persons who can establish that they meet the requirements of a qualified retired law enforcement officer but did so outside of the state shall be issued photographic identification by the sheriff of the county in which they currently reside, provided they pay the reasonable costs of the sheriff in verifying the applicant's credentials and issuing the identification card.

Standards for recognition of protection under LEOSA

Any person possessing a valid law enforcement identification or valid retired law enforcement identification as provided for under _____ and who also is in possession of a civilian concealed weapon carry permit issued by the state in which they reside or other documentation of compliance with the requirements of 18 U.S.C. 926B or 926C shall be deemed in compliance with and be afforded the protection of LEOSA. Unless there is articulable suspicion or probable cause to detain the individual or conduct a search of the person or their vehicle for other reasons no further verification shall be required other than that normally conducted for a traffic stop.

Standards for issuance of concealed carry permits to comply with LEOSA

Any authority authorized to issue a civilian concealed carry permit within this state shall make notation of recognized law enforcement status on the documentation issued to active or retired law enforcement who have presented photographic identification as otherwise described in _____. Persons presenting, as qualified retired law enforcement officers shall additionally be provided with an annual compliance decal to be affixed to the carry permit so as to conform to the requirements of 18 U.S.C. 926C(5) without any additional requirements so long as their permit is otherwise valid under state law. To the extent need or justification is required to obtain a civilian concealed carry permit such provision shall be deemed satisfied but application and presentation of a valid law enforcement or retired law enforcement identification as otherwise provided for under _____.

John

Use language from fed'l law: "Person has met (nonexistent)
state stds"

Don't use double negative ("No stds that the
person hasn't met")

Dsida, Michael

From: Dsida, Michael
Sent: Wednesday, August 24, 2005 3:44 PM
To: Hogan, John; Bruhn, Mike
Cc: Hanaman, Cathlene
Subject: Retirees and out-of-state officers

I will keep working on this, but I thought I should let you know that combining the bill with the federal-law-related provisions may leave you with a needlessly complex bill. Licensing retirees makes sense initially, but many of the provisions that apply to regular citizens do not apply to retirees. For example:

1. The basic CCW license is valid for five years, but documents issued to a retiree have to be reissued annually for them to have effect outside of Wisconsin. (Also, having DOJ issue concealed carry licenses to retirees will work fine while a retiree remains in Wisconsin, but if the person is a local law enforcement officer who travels out-of-state, the DOJ license alone does not give them the right to carry concealed there. An ID card issued by the person's ex-employer is also necessary.)

2. The bill authorizes private businesses and employers to prohibit patrons and employees who are licensees from carrying concealed weapons under certain circumstances, but those provisions cannot apply to retirees.

In addition, as you know, Wisconsin's law does not need to be revised for the federal law to apply to out-of-state officers and out-of-state retirees, but there are at least two issues that would arise if the bill is silent regarding them. First, federal law requires out-of-state officers and retirees to carry their ID cards (and, for retirees, their certifications, if needed) as a condition of being able to carry concealed. Without the ID or ID and certification, they could be subject to prosecution for unlawfully carrying concealed. One option you may want to consider is to allow them to carry concealed even without the documents and to make the penalties that apply to licensees who don't have their licenses (page 41, lines 1-2) apply to them as well. Second, current law prohibits carrying firearms in state parks and in government buildings. Under federal law, those provisions would still apply to an out-of-state officer or retiree unless the bill says otherwise.

prohibit relying photo ID.

Dsida, Michael

From: Bruhn, Mike
Sent: Monday, August 29, 2005 4:23 PM
To: Dsida, Michael
Subject: RE: Out-of-state officers who, after retirement, move to Wisconsin

Yes. Provided they meet the same standards that a retired Wisconsin officer has to meet.

From: Dsida, Michael
Sent: Monday, August 29, 2005 4:22 PM
To: Hogan, John; Bruhn, Mike
Subject: Out-of-state officers who, after retirement, move to Wisconsin

I assume that you want them to be able to get the certification/ID card from DOJ in the same way as an officer who retired from a Wisconsin agency, right?

Dsida, Michael

From: Bruhn, Mike
Sent: Monday, August 29, 2005 1:29 PM
To: Dsida, Michael; Hogan, John
Subject: RE: Failure to carry ID card

No, make it uniform, then.

From: Dsida, Michael
Sent: Monday, August 29, 2005 1:28 PM
To: Hogan, John; Bruhn, Mike
Subject: RE: Failure to carry ID card

FYI - I will need to specifically state that no penalty applies. Otherwise, the general penalty provision in s. 939.61 (1) (a) forfeiture of up to \$200) would apply.

From: Hogan, John
Sent: Monday, August 29, 2005 9:50 AM
To: Dsida, Michael; Bruhn, Mike
Subject: RE: Failure to carry ID card

No

From: Dsida, Michael
Sent: Friday, August 26, 2005 2:46 PM
To: Bruhn, Mike; Hogan, John
Subject: Failure to carry ID card

The bill currently provides a \$25 forfeiture for a licensee who fails to carry his or her license while carrying concealed. Should the same penalty apply to a Wisconsin retiree who fails to have his or her credentials? An active duty law enforcement officer or a retiree from another state?

Dsida, Michael

From: Hogan, John
Sent: Tuesday, August 16, 2005 4:16 PM
To: Dsida, Michael; Bruhn, Mike
Cc: Hanaman, Cathlene
Subject: RE: CCW bill -- prohibited BAC of 0.08

Mike,

There seemed to be created a different standard for ccw permit holders with a >.08 BAC than what exists under current law for a person in possession of a firearm with >.08. I believe it is located on pg. 46, line 17. We desire to eliminate the provision described in the (red-flag-raising) analysis on pg. 5: "At the same time, the bill exempts a licensee who is carrying a concealed handgun from the prohibition in current law against going armed with a firearm while under the influence of an intoxicant, a conviction for which would otherwise result in... Class A... \$10,000..."

John

From: Dsida, Michael
Sent: Tuesday, August 16, 2005 3:23 PM
To: Hogan, John; Bruhn, Mike
Cc: Hanaman, Cathlene
Subject: CCW bill -- prohibited BAC of 0.08

John and Mike-

Cathlene told me that you want to get rid of the extra penalty for carrying concealed with a BAC of 0.08. Does that mean that you want to get rid of the 0.08 prohibition altogether? (If so, the person would still be prohibited from carrying concealed if he or she "is under the influence of an intoxicant to a degree which materially impairs his or her ability to handle the weapon.")

Mike Dsida

Dsida, Michael

From: Hogan, John
Sent: Monday, August 29, 2005 4:26 PM
To: Dsida, Michael; Bruhn, Mike
Subject: RE: Out-of-state officers who, after retirement, move to Wisconsin

yes, I think we should make HR 218 available in WI even for the guys who were active duty officers outside of this state.

isn't that a stretch anyway, I mean, people who move to WI after retirement? Doesn't everyone move to Arizona where the sun is warm and the taxes are low?

From: Dsida, Michael
Sent: Monday, August 29, 2005 4:22 PM
To: Hogan, John; Bruhn, Mike
Subject: Out-of-state officers who, after retirement, move to Wisconsin

I assume that you want them to be able to get the certification/ID card from DOJ in the same way as an officer who retired from a Wisconsin agency, right?

Dsida, Michael

From: Dsida, Michael
Sent: Wednesday, August 24, 2005 11:44 AM
To: Hogan, John; Bruhn, Mike
Cc: Hanaman, Cathlene
Subject: Carrying while under the influence

If a person is convicted of driving (or boating, snowmobiling...) with a prohibited alcohol content and while intoxicated, the person may be charged with and convicted of each offense, but the person can only be sentenced for one of them. See, for example, s. 346.63(1)(c). Should the same approach apply to a person who is carrying a concealed weapon with a BAC greater than 0.08 and while intoxicated? Under last session's bill, the person could have been sentenced for both, but I don't know if I asked this question last session.

Note that the restriction on sentencing does not apply to cases alleging violations of both s. 941.20 (b) and s. 941.20 (bm). If a person is handling a firearm while under the influence of a controlled substance and there is a detectable amount of the controlled substance in his or her blood, the court can convict and impose a separate sentence under each statute. But having been the drafter of the bill that added the latter provision, I don't think there was a conscious decision to treat firearm cases differently from OWI cases.

M

OK to sentence for both

Dsida, Michael

From: Hogan, John
Sent: Tuesday, August 30, 2005 9:38 AM
To: Dsida, Michael; Bruhn, Mike
Subject: RE: ID card design

I think that if a retiree wishes to have his HR 218 priveleges, the card should look similar to mine but also read something to the effect of "meets 18 U.S.C. whatever and privileges thereof". to indicate that he can carry in all states as a retired cop.

From: Dsida, Michael
Sent: Monday, August 29, 2005 4:44 PM
To: Hogan, John; Bruhn, Mike
Subject: ID card design

Should the bill specifically require DOJ to design an ID card for retirees? (It doesn't need to, but I thought you might want to require it, in view of the fact that the bill requires DOJ to design a license document for licensees.) If so, should it have the same info (other than a license number) as the licensee card?

From: Hogan, John
Sent: Monday, August 29, 2005 4:26 PM
To: Dsida, Michael; Bruhn, Mike
Subject: RE: Out-of-state officers who, after retirement, move to Wisconsin

yes, I think we should make HR 218 available in WI even for the guys who were active duty officers outside of this state.

isn't that a stretch anyway, I mean, people who move to WI after retirement? Doesn't everyone move to Arizona where the sun is warm and the taxes are low?

From: Dsida, Michael
Sent: Monday, August 29, 2005 4:22 PM
To: Hogan, John; Bruhn, Mike
Subject: Out-of-state officers who, after retirement, move to Wisconsin

I assume that you want them to be able to get the certification/ID card from DOJ in the same way as an officer who retired from a Wisconsin agency, right?